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TO RUEHC/SECSTATE WASHDC IMMEDIATE 0953
INFO RUEHBJ/AMEMBASSY BEIJING PRIORITY 4126
RUEHLM/AMEMBASSY COLOMBO PRIORITY 4396
RUEHKA/AMEMBASSY DHAKA PRIORITY 9479
RUEHIL/AMEMBASSY ISLAMABAD PRIORITY 2372
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RHEFDIA/DIA WASHDC PRIORITY
RHHMUNA/CDR USPACOM HONOLULU HI PRIORITY
RUEKJCS/SECDEF WASHDC PRIORITY
RUEAIIA/CIA WASHDC PRIORITY
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C O N F I D E N T I A L KATHMANDU 000867

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TAGS: [PHUM](#) [PGOV](#) [NP](#)

SUBJECT: POSITIVE SUPREME COURT DECISION ON GENDER EQUALITY

REF: A. 05 KATHMANDU 2649

[1](#)B. 05 KATHMANDU 2885

Classified By: Ambassador James F. Moriarty. Reasons 1.4 (b/d).

Divorce Law To Be Equal For Men and Women

[1](#)1. (U) On March 30, the Supreme Court ruled that the provision in the Civil Code allowing men to divorce women on the grounds of a woman's infertility was contrary to the constitutional guarantee to equality. Under the old law, a married man could seek divorce after ten years of marriage if a government medical board proved his wife was infertile. "The provision in the Husband and Wife Relations Section of the Civil Code has been declared ultra vires," the Court wrote in its verdict upholding gender equity. The verdict was the result of public interest litigation filed by a local NGO. The Court ordered the government to promulgate a Civil Code law that was equal for men and women.

Ruling Elevates Status of Women

[1](#)2. (C) Sapana Malla, President of the Forum for Women, Law, and Development, the local NGO that took the case to court, told Emboff that this was a "very good decision by the Supreme Court." She explained that the changes go into effect immediately, which was the best result possible as "women neither need to wait for the Parliament to act, nor do they need to wait for the government to formulate a new law." She also stressed that "the ruling dispelled the myth of many Hindus" that only women could be infertile and recognized that men could also be infertile. She hoped that the ruling would also pave the way for more Nepali families to consider adoption, which she noted would be good for Nepali society.

Comment

[1](#)3. (C) The Supreme Court is working to address long-standing societal inequalities and grievances that the Maoists have exploited in their recruiting efforts. This Supreme Court ruling increasing women's rights follows the November 28

ruling (ref A) that women can get passports on their own, and the December 15 ruling (ref B) that married women can dispose of property on their own.

MORIARTY